

REMARKS

Claims 1-7 and 9-50 are pending in the present Application. Claims 1 and 20 are being amended. Support for these amendments can be found at least on page 7, lines 13-29 of the Specification as filed. No new matter is being added by way of this Amendment.

Regarding Claim Rejections – 35 USC § 103

Claims 1-7, 9-34, 36-42, 44-50 were rejected under 35 U.S.C. 103 (a) as being unpatentable over Zigmond et al. (US 6,698,020), hereinafter “Zigmond,” in view of Schlack (US 7,185,353). Applicants respectfully disagree.

Applicants’ amended claim 1 clearly recites, in part,

wherein the transmission schedule (a) specifies when and how the individual network device is to receive the one or more promotions, preparing the individual network device to receive the one or more promotions in advance of the one or more promotions being received by the individual network device,

where the underlined text indicates elements added by way of amendment.

Briefly, Applicants’ claim 1 creates customized transmission schedules that specify when and how each network device associated with a promotion group is to receive one or more promotions for the purpose of e.g., making each network device aware as to when and how to expect the content. Specification, page 7, lines 13-29. Here, it is important that each network device knows when and how to expect the content so that each network device can take whatever steps are necessary to receive the content (e.g., tune to a multicast or broadcast channel that is carrying the content at the time the content is transmitted on that channel). By delivering the transmission schedules to each network device before transmitting the content, the each network device knows ahead of time as to when and how to expect the content to be transmitted to them and thus each network device can make whatever preparations are necessary to receive the content accordingly.

Assuming arguendo that Zigmond describes sending an ad selection rule in advance of one or more promotions being received by an individual device, Applicants respectfully submit that Zigmond merely describes selecting, in advance, ads to display that are appropriate for a

viewer. *See* Zigmond column 11, lines 30-49 (Ad selection criteria select appropriate advertisements to be displayed to the viewer. Ad selection criteria include advertisement parameters describing, identifying or otherwise characterizing content of advertisement so that advertisement may be displayed to an appropriate segment of the viewing population and ad selection rules matching viewer information with the advertisement parameters associated with the advertisements.)

Applicants respectfully submit Zigmond's ad selection criteria that are used for selecting, in advance, ads to display that are appropriate for a viewer is not the same as or even suggestive of Applicants' "transmission schedule (a) specifies when and how the individual network device is to receive the one or more promotions, preparing the individual network device to receive the one or more promotions in advance of the one or more promotions being received by the individual network device."

Assuming *arguendo* that Zigmond describes event triggers, ad selection rules, and ad parameters must be sent in advance of advertisement being delivered to a viewer, Applicants respectfully submit this is not the same as Applicants' preparing an individual network device to receive one or more promotions in advance of the one or more promotions being received by the individual network device.

In fact, Zigmond teaches away or at the very least provides no motivation for Applicants' preparing an individual network device in advance. In Zigmond's streaming method, there is no need to prepare a viewer to receive an advertisement because the viewer is already capable of selecting and displaying any advertisement of a stream of advertisement at all times. *See* Zigmond, column 15, line 65-column 14, line 19 ("Providing a periodic or constant stream of advertisements, any of which may be selected and displayed to the viewer in real time") emphasis added.

Even if Zigmond discloses when an advertisement is to be received from an advertisement source, Zigmond merely describes how to select an appropriate advertisement and when to insert the selected advertisement. *See* Zigmond column 11, lines 30-49 (Ad selection criteria selects appropriate advertisements to be displayed to the viewer. Ad selection criteria include advertisement parameters describing, identifying or otherwise characterizing content of advertisement so that advertisement may be displayed to an appropriate segment of the viewing

population; and ad selection rules match viewer information with the advertisement parameters associated with the advertisements.). *See also* Zigmond, column 13, lines 6 – 28 (ad selection criteria used to choose advertisements that are compatible with television viewing habits of the viewer, the preferred Internet or World Wide Web sites, previous Internet purchases made using the home entertainment system, responses to consumer habits and preferences surveys, and the like); column 13, lines 48 – 58 (ad selection criteria used to select advertisements having different content ratings depending on the content rating of the program being watched by the viewer); and column 14, lines 13– 24 (ad selection criteria used to choose advertisements based on the content of recently displayed advertisements).

Applicants respectfully submit that by merely selecting and inserting an appropriate advertisement Zigmond is not the same as Applicants’ “specify[ing] when and how the individual network device is to receive the one or more promotions, preparing the individual network devices to receive the one or more promotions in advance of the one or more promotions being received by the individual network device.”

Assuming *arguendo* that Zigmond and Schlack can be combined and there is motivation to do so, Applicants respectfully submit that the Zigmond and Schlack combination falls short of Applicants’ claimed feature of “a transmission schedule specifies when and how the individual network device is to receive the one or more promotions, preparing the individual network device to receive the one or more promotions in advance of the one or more promotions being received by the individual network device,” recited in amended claim 1 (emphasis added).

In contrast, the Zigmond and Schlack combination merely describes relying on market segment information, ad/avail information, subscriber information, and channel change statistics to schedule ads for insertion. Such information would not specify when and how to receive promotions, and prepare individual network devices to receive the promotions. *See* Schlack, column 5, line 59 – column 6, line 21 (To identify ads to be scheduled and market segments associated with the ads, and subscribers and market segments to which they belong, correlate subscriber information identifying all or groups of subscribers on the network and their demographics or other characteristics; market segment information identifying a list of advertiser-specific market segments created in the system and their characteristics; and ad/avail information identifying ads to be scheduled as well as ad insertion window times).

Because the the Zigmond and Schlack combination neither alone or in combination teach or provide motivation for Applicants' "transmission schedule (a) specifies when and how the individual network device is to receive the one or more promotions, preparing the individual network device to receive the one or more promotions in advance of the one or more promotions being received by the individual network device," recited in claim 1, Applicants respectfully submit claim 1 as amended overcomes the 103 rejection, and as such, should be allowed.

Claims 1 and 20 recite similar elements, and as such, claim 20 is allowable for similar reasons. Claims 2-7, 9-19, 33, 35-42, 49, and 50 depend on claim 1; and claims 21-32, 34, 43-48 depends from claim 20, as such, these claims should be allowable the same reasons as the claims from which they depend.

Claims 35 and 43 were rejected under 35 U.S.C. 103 (a) as being unpatentable over Zigmond et al. (US 6,698,020), hereinafter "Zigmond," in view of Schlack (US 7,185,353) and further in view of Alexander et al. (US 6,177,931), hereinafter "Alexander". Applicants respectfully disagree.

Applicants respectfully submit that Zigmond, Schlack, and Alexander, taken either singly or in combination do not teach, suggest, or otherwise make obvious Applicants' "wherein the transmission schedule specifies when and how the individual network devices to receive the one or more promotions." This feature is clearly recited in Applicants' claims1 and 20 from which claims 43 and 35 depend, respectively.

As reasoned above, Zigmond and Schlack, either singly or in combination, fail to disclose Applicants' transmission schedule specifies when and how the individual network device is to receive the one or more promotions preparing the individual network device to receive the one or more promotions in advance of the one or more promotions being received by the individual network device.

Now considering Alexander, at column 32, lines 24-54, Alexander discloses a technique for customizing the presentation of advertising using viewer profile information. *See also* Alexander, column 32, lines 22-23. The technique involves an electronic program guide (EPG), a profile program and the viewer profile information. *See* Alexander, column 32, lines 24-34. The viewer profile information contains data that is collected concerning and surrounding a

viewer's interaction with a television. *See* Alexander, column 29, lines 14-20. The EPG and profile program use the viewer profile information to tailor the presentation and scheduling of advertisements to a viewer. *See* Alexander, column 32, lines 24-27.

Specifically, Alexander notes the viewer profile information may be used to customize an overlay message that is displayed on a particular advertisement. More particularly, Alexander notes that geographic information stored in the profile (e.g., a zip code) may be used to inform the EPG of a viewer's geographical location. The EPG may then select an overlay message based on the geographical information. The selected overlay message is displayed to the viewer when the advertisement is displayed. *See* Alexander, column 32, lines 39-54.

Alexander would not need Applicants' transmission schedule which specifies when and how an individual network device is to receive one or more promotion because Alexander determines what advertisements to display based on viewer profile information. The profile information is merely viewer profile data that is fed into the EPG or the profile program which has the built-in intelligence to examine the profile data and select what advertisements to display. Thus, including information about when and how a promotion is to be received in the viewer profile data would not help Alexander because the decision as to what advertisement to display is made by the EPG and/or the profile program and not in the data that is fed to the EPG and/or profile program.

Thus, the technique described by Alexander to determine how an EPG is to be presented and/or what advertisements are to be displayed is not the same as Applicants' "transmission schedule specifies when and how the individual network device is to receive the one or more promotions preparing the individual network device to receive the one or more promotions in advance of the one or more promotions being received by the individual network device."


Accordingly, the rejection of claims 35 and 43 under 35 U.S.C. § 103 as being unpatentable over Zigmond in view of Schlack, and in further view of Alexander should be reversed.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims (claims 1-7, 9-50 are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 

David J. Thibodeau, Jr.
Registration No. 31,671
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133

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